IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8740 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD ADVANCE MILLS LTD.

Versus

KALUBHAI C JANI

Appearance:

MR KS NANAVATI for Petitioner

MR KV GADHIA for Respondent No. 1

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 27/11/2000

C.A.V. JUDGEMENT

1. Shri Kalubhai C. Jani-respondent workman was working in Ahmedabad Advance Mills Ltd, petitioner herein. In the petition, it has been averred that the respondent workman was dismissed from the services ofthe petitioner Company with effect from 21st May, 1980.

Pursuant to his dismissal, the respondent filed an application before the Labour Court at Ahmedabad, being Termination Application No.321 of 1980. When the said application came up for hearing before the Labour Court, at Ahmedabad, the respondent workman was not present at that point of time and, therefore, the Labour Court was pleased to dismiss the application filed by the respondent workman in this behalf.

2. Being aggrieved and dissatisfied by the aforesaid order dated 23rd December, 1983 dismissing his application for default, the respondent in the Year-1984 filed Miscellaneous Application praying for restoration of the original application to file being Miscellaneous Application No.158 of 1984. The respondent has contended that in the said restoration application that he did not remain present in the Court. In the said application, in fact he has stated that he has taken up a plea that he has come to know about the dismissal of his application only after he returned from his native place. The petitioner Mill Company resisted the said application before the Labour Court. The Labour Court, after considering the plea of the respondent and after taking into consideration original submissioin made on behalf of the parties and considering the written statement filed by the petitioner Mill Company arrived at a conclusion that since the application for restoration had been filed much beyond the period of thirty days prescribed by the relevant provision of the Bombay Industrial Relation Act and that since there was no provision in the BIR Act (herein after referred to as the BIR) for condonation of delay, the delay could not be condoned and so observing, the Labour Court vide its order passed on 1oth June, 1991 was pleased to reject the application praying for restoring the Main Application.

3. Being aggrieved and dissatisfied by the aforesaid order passed by the Labour Court at Annexure-D, the respondent workman filed Appeal No.56 of 1991, before Shri B. M. Bhatt, Member, Industrial Tribunal Gujarat at Ahmedabad. The said appeal came up for hearing before the Indistrial Court, Ahmedabad, who after hearing the parties, observed that the Labour Court was incorrect in dismissing the application of the respondent-employee passed an order allowing the appeal filed by the respondent workman and directed that the case of the respondent employee be heard and decided on merits.

4. Being aggrieved and dissatisfied by the aforesaid order of the Industrial Court, the petitioner has preferred this petition before this court in

September,1992 for quashing and setting aside the order passed by the Industrial Court. The matter was placed for hearing before this court on 14th December, 1992. The Division Bench was pleased to stay theproceedings of T.Application No.321 of 1980 before the Labour Court, Ahmedabad pending admission, hearing and final disposal of this writ petition (for staying further proceedings in Termination Application No.321 of 1980 before the Labour Court, Ahmedabad). Thereafter, on 11th June, 1993 again the Division Bench of this Court was pleased to pass the following order.

> As per order dated June 11, 1993 passed in Civil Application No.920 of 1993 ad-intrim relief is not vacated. Therefore, the aforesaid ad-interim relief be treated as interim relief and it is directed that the petition be placed for final hearing in the week beginning from July, 12, 1993 before the Court taking up final hearing matters.

5. The learned advocate for the petitionere stated that winding up the order which has been passed against the Ahmedabad Advance Mills Ltd and an appointment of Official Liquidator is also passed. in view of the same, this petitions as become infructious and the same is accordingly disposed of. Rule is made absolute to the aforesaid extent. Ad-interim relier granted earlier is vacated.

(K. M. Mehta,J.)

(vrp)*